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02-13-13

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on  
Regulations Relating to Passenger  
Carriers, Ridesharing, and New Online  
Enabled Transportation Services

**R. 1212011**

**PREHEARING CONFERENCE STATEMENT OF TAXICAB PARATRANSIT  
ASSOCIATION OF CALIFORNIA (TPAC) ON ORDER INSTITUTING RULEMAKING  
REGARDING PASSENGER CARRIERS, RIDESHARING, AND NEW ONLINE  
ENABLED TRANSPORTATION SERVICES**

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DATED: February 13, 2013

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## **I. INTRODUCTION.**

The Commission's proposed rulemaking raises critical issues affecting the health and welfare of every Californian – whether or not they personally use on-demand passenger transportation. The Commission's rulemaking will undoubtedly have a great impact the economic viability of a major regulated industry. The Commission's actions could also herald a paradigm shift of regulatory authority over on-demand, metered passenger transportation: a shift away from local taxicab regulators and toward state-level regulation by the Commission.

A number of highly relevant legal and factual issues have only recently arisen, either through the comments made by the interested parties in their responses to the rulemaking, or through actions of the Commission itself. As a result, this Pre-Hearing Conference Statement represents the early “best effort” of the Taxicab Paratransit Association of California (TPAC) to synthesize these issues and estimate their impact on the Commission's rulemaking processes. As additional information and contentions come to light through this process, TPAC expects that its position as to some or all of these matters may be revised accordingly.

## **II. FACTUAL AND LEGAL ISSUES TO BE DECIDED BY THE COMMISSION.**

### **A. Jurisdiction.**

- Legal Issue # 1: Should the Commission establish a safe harbor in which OETS operations can circumvent local regulations and compete against taxicab companies that follow such regulations?

Given the multitude of laws prohibiting TCP and most non-TCP carriers from acting as a taxicab, if the Commission creates a regulatory framework that allows OETS operators to use PUC-regulated carriers, then the role of cities in regulated taxicab operations will be undermined throughout the state. It is important that the Commission not sidestep the well-established jurisdiction of the municipalities under California law. The Commission should ensure that any

regulatory scheme does not make illegal conduct acceptable and therefore allow OETS operators to circumvent local regulations (which are on the whole more restrictive) and compete with locally regulated taxi companies. This uneven playing field will have a disastrous effect on the passenger transportation industry.

- Legal Issue # 2: Does the Telecommunications Act of 1996 (Telecom Act) prohibit the regulation of OETS operations?

Nothing in the case law provided by the OETS operators supports the proposition that the Commission or local authorities cannot regulate a company that provides transportation services because it uses the internet as part of its business model. In fact, the case law that has developed around the Telecom Act immunities dictates that information service providers cannot be held liable for the harm caused by a third party using their service. OETS operators are not passive participants in the provision of transportation services to consumers. As such, the Telecom immunities are not applicable to the instant situation.

- Legal Issue # 3: Does Cal. Pub. Util. Code §710 preclude Commission regulation of OETS operators?

The Commission should not read *Cal. Pub. Util. Code* § 710 to exclude OETS operators from state and local regulation merely because the operator uses IP-enabled services as a part of its business model. Even in the most liberal reading of the section, the section clearly exempts any regulations based on established statutory authority and does not effect the “enforcement of any state or federal criminal or civil law or any local ordinances of general applicability ...governing the use and management of the public rights-of-way.”<sup>1</sup>

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<sup>1</sup> *Cal. Pub. Util. Code* § 710(b).

- Legal Issue # 4: Clarification of the definition of passenger transportation on a “prearranged basis.”

*Cal. Pub. Util. Code* § 5360.5 defines “prearranged basis” by the requirement that the passenger and the carrier of previously entered into a contract for the provision of transportation services by the carrier. The definition was established 15 years ago, long before the advent of smart-phones and OETS operators. Its main purpose was to separate transportation services provided by PUC-regulated carriers and on-demand or hailed transportation services in which fares are directly regulated. A clarification of the definition of “prearranged basis” based on the addition of a “bright line” time element would best aid the Commission in ascertaining whether or not a transportation service provider is subject to the Commission’s regulatory framework. Accordingly, a minimum time period of one-hour should be required.

- Legal Issue # 5: Does the Commission intend to create a new carrier category to encompass OETS operators and bypass local taxicab regulations?

If the Commission intends to regulate OETS operators by creating a new carrier category, then the applicable regulatory framework must ensure that OETS operators are subject to established regulatory requirements and are not provided a safe harbor that is inaccessible to others in the industry. The Commission should investigate the impact that the creation of any new category of passenger travel will have on the ability of municipalities to control taxicab traffic, to protect public safety and welfare, and to address other local concerns through local taxicab regulations. The Commission should evaluate the effect that a OETS operator carrier category would have on locally regulated carriers, especially since OETS operators may have a competitive advantage because they are less regulated than other carriers.<sup>2</sup>

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<sup>2</sup> Given the many litigation and regulatory actions now pending against OETS operators across the nation, the issue may be better framed in terms of how these operators systematically violate laws and then “seek forgiveness” only after the fact.

- Factual Issue # 1: Do OETS operators engage in transportation services for compensation?

OETS operators are the focal point for providing transportation services through either a network of “approved” partner/drivers or other contracted “drivers.” OETS operators provide dispatching services via their smartphone applications, set rates, create and provide equipment, and charge, collect and distribute fares. At both the enterprise level (Uber, SideCar, Lyft and the like) and at the vehicle level (partner/drivers) the clear intention is to profit by providing passenger transportation for compensation. TPAC believes that the facts will clearly establish that the OETS operators are engaged in transportation services for compensation.

#### **B. Are OETS Operators *de facto* taxicab companies?**

- Legal Issue # 1: Are Ridesharing OETS Operators Essentially Running a *De Facto* Taxicab Service?

On the other hand, OETS operators such as Lyft and SideCar, attract drivers to their service by stating that any person can make supplemental income from driving passengers in their personal car.<sup>3</sup> Although the OETS operators seek to avoid the “for-profit” label by making compensation optional, passenger ratings ensure that every driver is paid for providing transportation services or else a passenger risks losing access to the community. The intent of these drivers is not to engage in transportation services that are incidental to the purpose of the driver. OETS drivers are using Lyft and SideCar as a means to make extra money by using their personal vehicles to provide transportation services for compensation. As such, they are acting as

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<sup>3</sup> [https://drive.side.cr/apply/view/site\\_home](https://drive.side.cr/apply/view/site_home) [“drivers are earning \$22+ per hour. SideCar drivers [use] the extra cash to pay for things like vacation, rent, gift and most importantly, their car payment! Learn more.” A Lyft post on craigslist.com asks “Do you want to learn more about how hundreds of Bay Area residents are: (1) Making extra cash on the weekends - \$28/hr on Friday and Saturday nights; (2) Paying for Rent – making \$22/hr on Weeknights; (3) Making their car payments - \$18/hr on Wednesday and Thursday afternoons; (4) Having extra spending money -\$23/hr on Weekday mornings....” Initial Comments of United Taxi Workers on *Order Instituting Rulemaking on Regs. Relating to Pas. Carriers, Ridesharing, and New Online Enabled Trans. Sers.*, R1212011, Ex. A.

*de facto* taxicabs.

- Legal Issue # 2: What enforcement action by the Commission is appropriate to punish OETS companies operating bandit taxicab operations and deter similar misconduct by others ?

*Cal. Pub. Util. Comm'n Gen. Order No. 158-A § 3.02* states that carriers regulated by the Commission are “prohibited from using vehicles which have ... taximeters.”<sup>4</sup> OETS operators are using TCP carrier to provide taxicab transportation services. This is evident by the fact that Uber provides on demand transportation services and calculates fares based on distance and time using GPS enabled smartphones as a taxi meters. Uber’s TCP carriers do not charge fares based upon a prearranged basis or in accordance with a filed fare schedule in compliance with the PUC regulations. This means that Uber’s TCP carriers are acting as unregulated taxicabs in violation of general order No. 158-A § 3.02, are subject to penalties under *Cal. Pub. Util. Code § 5411*.<sup>5</sup>

Furthermore, *Cal. Pub. Util. Code § 5412*, places liability on any entity that “procures, aids, or abets any charter-party carrier of passengers in its violation of this chapter...” Uber provides dispatching services, it sets rates, creates and provides equipment including GPS taxicab meters, charges, collects and distributes fares, processes “Uber” receipts and directly profits from the proceeds of each fare. Additional applicable penalties are set forth in *Pub. Util. Code §§ 5411-5416*. Therefore, the current regulations place liability on unlicensed OETS operators like Uber because they facilitate TCP drivers violation of the Commission’s

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<sup>4</sup> “**Taximeter** shall mean a device that automatically calculates at predetermined rate or rates, and indicates the charge for hire of a vehicle. *Los Angeles Municipal Code* (LAMC) 71.00.

<sup>5</sup> *Cal. Pub. Util. Code § 5411* states “Every charter-party carrier of passengers ...who violates or who fails to comply with...any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or of any operating permit or certificate issued to any charter-party carrier of passengers... is guilty of a misdemeanor and is punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.”

regulations and general orders.<sup>6</sup>

### **C. Consumer Protection and Safety Implications.**

- Factual Issue # 1: Should the OETS operators be allowed to operate without regulation?

The OETS operators' statements that their alleged safety procedures enhance personal and public safety can be given absolutely no weight. They have submitted to no regulatory authority, and there is no established mechanism to evaluate these procedures. Their safety procedures are voluntary, and therefore unreliable and unverifiable. The OETS operators should be required to ensure that existing standards are met by their drivers. In the end, OETS drivers should be held to the same level of service and accountability as regulated drivers.

### **D. Ridesharing.**

- Legal Issue # 1: Are the “noncommercial enterprise” and “ridesharing” exemptions to CPUC jurisdiction applicable to OETS operators such as Lyft and SideCar?

The facts will establish that both at the enterprise level (Lyft and SideCar) and at the vehicle level (drivers) the intention is to make a profit. The requirements of the “noncommercial enterprise” and “ridesharing” exemptions do “not apply if the primary purpose for the transportation of those persons is to make a profit.”<sup>7</sup> Therefore, the exemptions do not apply to Lyft and SideCar.

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<sup>6</sup> *Cal. Pub. Util. Code* § 5412 states “Every corporation or person *other than a charter-party carrier* of passengers, who knowingly and willfully, either individually, or acting as an officer, agent, or employee of a corporation, copartnership, or any other person other than a charter-party carrier of passengers, violates *any provision of this chapter* or fails to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or who procures, aids, or abets any charter-party carrier of passengers in its violation of this chapter, or in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, or requirement, *is guilty of a misdemeanor*, and is punishable by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not more than three months, or both”

<sup>7</sup> *Cal. Pub. Util. Code* § 5353(h).

- Legal Issue # 2: What mechanism can the PUC put in place to ensure that all OETS operators that are eligible for the “ridesharing” exemptions is in compliance with the requirements of *Cal. Pub. Util. Code* § 5353(h)?

Regardless of whether the Commission seeks to expand the acceptable destinations applicable to the “ridesharing” exemption, the fact that the “exemption does not apply if the primary purpose for the transportation of those persons is to make a profit”<sup>8</sup> remains immutable. Therefore, the Commission should focus on establishing a mechanism to ensure that entities that claim the “ridesharing” exemption remain in compliance with the “non-profit” requirement of the exemption. The IRS Internal Revenue Services’ scheduled reimbursement for automobile-related business travel expense, which is set at 56.5 cents per mile for 2013,<sup>9</sup> is the best method to ensure that any reimbursement paid by a passenger does not surpass the pro-rated cost of owning and operating the vehicle. This measurement takes into account the full cost of owning a vehicle, on a mile-by-mile basis.<sup>10</sup> By using the IRS method, a passenger can be provided, via the OETS operator’s app, a real-time calculation of “the actual costs incurred in owning and operating” the vehicle prorated for the distance of the passenger’s trip.

#### **E. Insurance.**

- Factual Issue # 1: Should OETS operators be required to maintain insurance policies which provide adequate coverage to protect the public?

The supplemental insurance policies offered by SideCar and Lyft are contingent on the driver obtaining valid personal auto insurance coverage.<sup>11</sup> Given that personal auto insurance coverage is not applicable to situations where the driver is providing transportation services for

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<sup>8</sup> *Cal. Pub. Util. Code* § 5353(h).

<sup>9</sup> <http://www.irs.gov/uac/2013-Standard-Mileage-Rates-Up-1-Cent-per-Mile-for-Business,-Medical-and-Moving>.

<sup>10</sup> Moreover, allowing the OETS operators to process reimbursement payments via their established payment system offers a great tool to ensure that these drivers are only receiving the appropriate IRS reimbursement rate from the passenger.

<sup>11</sup> See <http://www.lyft.me/terms>; [http://www.side.cr/driver\\_guarantee](http://www.side.cr/driver_guarantee).

compensation, the supplemental insurance coverage offered by Lyft and SideCar is completely ineffective if it is supplemental to a driver's personal noncommercial auto insurance policy.

- Factual Issue # 2: Do the personal auto insurance policies of drivers of OETS operators such as Lyft and SideCar provide coverage for personal injury or property damage in the event that an accident occurs?

From the survey conducted by the Personal Insurance Federation of CA of its members, the industry standard, with regard to personal auto insurance policies, "is to exempt from insurance coverage claims involving vehicles used for transporting passengers for a charge."<sup>12</sup> Other information provided in the initial comments backs up this statement. SideCar and Lyft drivers are offering transportation services for a charge, and therefore all OETS related transportation activities are generally excluded from personal noncommercial auto insurance coverage.

- Factual Issue # 3: Do the insurance policies held by TCP drivers provide clear and adequate coverage for personal injury and property damage related to a TCP driver providing transportation services dispatched through an OETS operator?

The TCP drivers utilized by OETS operator Uber are illegally operating as de facto taxicabs. Therefore, any Uber related transportation services by its TCP partner/drivers may be excluded from coverage. It is not clear if Uber confirms that the insurance policy held by the TCP drivers is current, active, and covers Uber related transportation services by TCP operators. Therefore, it is apparent that TCP drivers are not covered by any insurance when they are conducting Uber related transportation services.

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<sup>12</sup> Initial Comments of the Personal Insurance Federation of CA *on Order Instituting Rulemaking on Regs. Relating to Pas. Carriers, Ridesharing, and New Online Enabled Trans. Sers.*, R1212011, p. 1.

## **F. Transportation Access.**

- Factual Issue # 1: Are OETS services offered in a discriminatory manner? Should OETS operators be required to ensure access by physically handicapped individuals or people residing in low income areas?

OETS operators do not require drivers to provide services to all passengers, nor do they offer suitably equipped vehicles to physically challenged consumers. No effort is made to ensure service to low income areas in the same manner required of regulated carriers. In fact, the “passenger rating system” if left unregulated provides a tool to facilitate discrimination against passengers based on any whims of the drivers, including those based on race, nationality, neighborhood, socio-economic status, religion, or sexual orientation, as well as physical and/or mental disabilities.

## **G. Terms of Service.**

- Legal Issue # 1: Should OETS operators “terms of service” which disclaim liability and legal responsibility by banned or regulated by the PUC and/or city transit authorities?

Uber, Lyft and SideCar require their passengers to agree to a “terms of service” agreement that affect the safety and insurance issues identified in the Commission’s OIR.<sup>13</sup> For instance, even though all of the OETS operators have offered testimony that they provide in-depth safety procedures including background screening and driving records, their “terms of service” include disclosures that contradict the safety comments of the OETS operators. Additionally, with regard to the insurance issues, every OETS operator requires users of their service to accept a “liability waiver” wherein the OETS operator is absolved of any liability for personal injuries or property damage arising from use of the OETS operators’ services. Therefore, the terms of service is a pervasive issue affecting whether or not OETS operators are responsible for the service that provide to consumers in the same manner that is required of

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<sup>13</sup> <http://www.lyft.me/terms>; <http://www.side.cr/terms>; <https://www.uber.com/legal/terms>.

taxicabs and charter-party carriers of passengers.

#### **H. Current Settlement Agreements between Uber, SideCar and Lyft and the Commission.**

- Factual Issue # 1: What effect does the settlement agreement entered into by and between the Commission and Uber, SideCar, and Lyft, have on the industry?

It has come to the attention of TPAC that Uber, SideCar and Lyft have entered into a settlement agreement with the Commission that allows the OETS operators to continue to operate throughout these rulemaking proceedings. The settlement agreements place minor obligations on the OETS operators. However, the issues of jurisdiction, consumer protection and safety, insurance coverage and transportation access have yet to be fully explored, consumers utilizing these services are being placed in an unnecessarily unsafe and unprotected situation by the current agreements. TPAC strongly urges that the rulemaking reconsider these agreements and also consider withholding any authorization (whether or not temporary in nature) as to the OETS operations until the full range of public safety, consumer protection and regulatory issues can be considered.

#### **III. MATERIAL UNDISPUTED FACTS.**

At this stage, TPAC cannot ascertain any undisputed facts. Investigation and discovery will be necessary to discern possible areas of agreement between the parties.

#### **IV. ANTICIPATED DISCOVERY.**

TPAC anticipates that substantial investigation and discovery will be required given the complexity of the issues identified above. TPAC will seek to explore the following issues via written interrogatories, requests for document production and deposition testimony:

- a. Current insurance coverage held by the OETS operators;
- b. Current insurance coverage held by OETS partner/drivers;

- c. The manner and usage of TCP drivers in Uber’s operations;
- d. How suggested or mandatory fares/donations/contributions/tips are calculated by the OETS operators;
- e. Safety standards employed by OETS operators when evaluating potential drivers;
- f. Training standards and review processes;
- g. Ongoing safety requirements and methods of compliance;
- h. “Incidents,” current litigation, and performance related concerns;
- i. Data on the effect of the OETS operations is having on public safety;
- j. Transportation access issues;
- k. The effect of driver and passenger rating systems on access to OETS services;
- l. Comments of persons using the services as either a driver or a passenger;
- m. Business-related information including, but not limited to, market share and profitability.
- n. Any and all relevant information that is admissible in evidence or reasonably calculated to lead to the discovery of admissible evidence.

**V. HEARINGS.**

TPAC recommends that the Commission hold evidentiary hearings on the issues identified below. The Commission will find it necessary to issue a determination on these factual disputes in order to render a decision that effectively disposes of the issues raised in the OIR and in the party comments. The issues identified below are based upon the current knowledge of TPAC. Therefore, TPAC reserves the right to request further hearings on issues that may present themselves through the course of discovery.

**A. Jurisdiction**

TPAC recommends that a hearing be held on whether the Commission has jurisdiction over OETS operators. A hearing is necessary because the OETS operators have claimed that they do

not fall within the jurisdiction of the Commission given the nature of their business models or the type of transportation service that they provide. As such, TPAC requests a hearing to: (1) establish whether the Commission has jurisdiction over OETS operators; and (2) to determine how jurisdiction over OETS operators should be apportioned between the Commission and local taxicab regulators to preserve local control over important local issues such as traffic, environmental issues, transportation access, and other issues of local concern (and existing regulatory authority). These hearings should further address the factual and legal issues raised in section II, herein.

Time Requirement: 6 - 10 days / Number of witnesses: 15-20

**B. Are OETS operators *de facto* taxicab companies?**

TPAC recommends that a hearing be held on whether or not OETS operators are operating as taxicab companies in violation of state and local regulations. TPAC contends that OETS operators are acting as *de facto* taxicabs while avoiding regulation by local transit agencies and/or the Commission. The Commission's regulatory framework makes a clear distinction between the services offered by PUC regulated carriers and taxicabs. The services offered by the OETS operators seem to cross the two jurisdictions in a manner that is unsafe and poses economic hardship on the industry. As such, TPAC requests a hearing to determine if under the current regulatory framework, OETS operators are merely unregulated and unlicensed taxicabs who are using new technologies to avoid regulations by local and/or state authorities. These hearings should further address the factual and legal issues identified in Section II, herein, relevant to the topic of whether OETS operators are *de facto* taxicab companies.

Time requirement: 5 - 8 days / Total number of witnesses: 12-18

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### **C. Consumer Protection and Safety Implications.**

TPAC recommends that the Commission should hold a hearing on the issue of whether the standards used to evaluate drivers and compliance requirements used by OETS operators are sufficient to protect the public. The OETS operators have contended that their current safety procedures actually enhance public safety. TPAC disputes this assertion given the fact that data has not been obtained to provide the Commission with enough information to make a clear determination of this issue. As such, TPAC requests a hearing to: (1) review all the materials generated by the parties on the consumer protection and safety issues; (2) make a determination as to whether the procedures utilized by the OETS operators are effective; (3) to determine the effect of OETS operators' "terms of service" agreements on the issue of consumer protection and safety; and (4) determine whether OETS operators should be held to the same standards as other passenger carriers. These hearings should further address the factual and legal issues relevant to the topic of consumer protection and safety implications, identified in Section II, above.

Time Requirement: 5 - 8 days / Number of witnesses: 12-18

### **D. Ridesharing.**

TPAC recommends that a hearing should be held to determine if the current operations of ridesharing OETS operators such as Lyft and SideCar fit into the established "ridesharing" exemption stated in *Cal. Pub. Util. Code* 5353(h). Both Lyft and SideCar have stated in their initial comments that their operations are merely an innovative means to offer carpooling opportunities to a community of people. TPAC disputes this assertion and contends that ridesharing OETS operators like Lyft and SideCar are profit oriented operations both at the enterprise level and the vehicle level (partner/drivers). As such, TPAC requests a hearing to determine: (1) are the drivers of ridesharing OETS operators using the platform as a source of

supplemental income; (2) is the compensation received by drivers exceeding the maintenance costs of their vehicles; (3) are passenger contributions/donations actually “voluntary”; (4) are drivers actually providing transportation services that are incidental to the driver’s purpose or work/home related; and (5) what are the profit motivations of the OETS operators themselves. These hearings should further address the factual and legal issues relevant to the topic of ridesharing, identified in Section II, above.

Time Requirement: 4 - 6 days / Number of witnesses: 10-16

#### **E. Insurance.**

TPAC recommends that a hearing should be held to determine if the current insurance framework currently utilized by OETS operators is effective. Uber has commented that its reliance on TCP carriers insurance provides sufficient protection. SideCar and Lyft have commented that their system of drivers maintaining personal auto insurance policies and their voluntary supplemental insurance is sufficient to protect the riding public. TPAC disputes these assertions and contends that it is highly likely that there is not insurance coverage for OETS related transportation services. As such, TPAC requests a hearing to determine: (1) whether TCP insurance policies are applicable to OETS related transportation services; (2) whether the personal auto insurance policies held by Lyft and SideCar drivers provide any coverage for OETS related transportation services; (3) whether the supplemental insurance policies held by Lyft and SideCar actually provide coverage in the event that the personal auto insurance policies of their drivers do not provide coverage for OETS related transportation services; and (4) whether the “terms of service” agreements of OETS operators, which allow OETS operators to disclaim liability for personal injuries or property damages, gives insurance providers the ability to avoid coverage of OETS related transportation services. These hearings should further

address the factual and legal issues relevant to the topic of insurance, identified in Section II, above.

Time Requirement: 5 - 8 days / Number of witnesses: 12-18

#### **F. Transportation Access.**

TPAC recommends that a hearing should be held to determine if OETS operations are provided in a discriminatory manner. TPAC questions whether the passenger/driver rating systems can be used to facilitate discrimination against passengers based on race, nationality, neighborhood, socio-economic status, religion, or sexual orientation, as well as physical and/or mental disabilities. Furthermore, TPAC questions whether passengers with physical disabilities are provided with sufficient access to OETS services in the same manner required of passenger transportation carriers regulated by local authorities and the Commission. As such, TPAC requests a hearing to determine: (1) the impact of passenger/driver rating systems on facilitating discriminatory practices; and (2) whether passengers with physical disabilities have sufficient access to OETS services. These hearings should further address the factual and legal issues relevant to the topic of transportation access, identified in Section II, above.

Time Requirement: 2 - 4 days / Number of witnesses: 5 - 8

#### **VI. PROPOSED SCHEDULE.**

In the Commission's OIR, the Commissioners stated that they intended render a proposed decision within 6 months of the issuance of the order.<sup>14</sup> This would place the issuance of a proposed decision on June 6, 2013. This timeframe would only provide less than four months for the parties to fully explore the multitude of issues identified herein. TPAC appreciates the aggressive posture that the Commission has taken on this issue because TPAC's membership

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<sup>14</sup> OIR on Regs. Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Service, p. 11, December 27, 2012.

would like to establish a clear understanding of where OETS operator fit into the regulatory structure applicable to all carriers. However, TPAC is concerned that the June 6, 2013 deadline is not enough time to fully evaluate the various complicated issues present in this proceedings. It creates an unrealistic timeframe in which to identify, review, assess, craft and issue substantive findings on all of the outstanding issues described in the OIR and identified by the various parties.

Moreover, a shorter time frame from the exploration of these issues creates an uneven playing field since most of the non-OETS operators do not have immediate access to the information that will be necessary to fully explore the issues identified in the OIR and by the various parties. Thus, the effect of the constrained schedule effectively limits the ability of parties to conduct meaningful discovery, to provide party testimony or to cross-examine those parties who will file testimony and/or exhibits. Furthermore, given the far-reaching effect that OETS operations have on the passenger transportation and related industries, without sufficient time to explore the various issues, and their potential impact, these proceedings may end up merely protecting the status quo. TPAC respectfully requests a proceeding schedule that will allow for a detailed review and the development of solutions for issues identified by the parties that will lead to achieving the best possible outcome for all interested parties.

As such TPAC proposes the following schedule:

<b>EVENT</b>	<b>DATE</b>
Prehearing Conference	February 15, 2013
Discovery cut off.	August 15, 2013
Evidentiary hearing re jurisdiction issues	September 3, 2013 through September 16, 2013
Evidentiary hearing re <i>de facto</i> taxicab status	October 1, 2013 through October 10, 2013
Evidentiary hearing re consumer protection and safety implications	November 4, 2013 through November 13, 2013

Evidentiary hearing re ridesharing	December 2, 2013 through December 9, 2013
Evidentiary hearing re insurance	January 6, 2014 through January 15, 2014
Evidentiary hearing re transportation access	January 27, 2014 through January 30, 2014
Comments re evidentiary hearings	February 16, 2014
Reply comments re evidentiary hearings	March 3, 2014
Proposed decision	April 2, 2014
Comments on proposed decision	April 16, 2014
Reply comments on proposed decision	April 30, 2014
Final Commission decision	June 2, 2014

## VII. CONCLUSION.

TPAC appreciates the opportunity to file this prehearing conference statement and request that the Commission issue a final scoping memo and schedule consistent with this filing.

DATED: February 13, 2013

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/s/ Steven Rice, Esq.  
/s/ Jaime B. Laurent, Esq.

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